

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 20817 (Application 30236)

**Foster Wine Estates**

**ORDER REVOKING PERMIT**

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SOURCES: 3 UNNAMED STREAMS TRIBUTARY TO NAPA RIVER

COUNTY: NAPA

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**WHEREAS:**

1. Foster Wine Estates (Permittee) is the water right holder of water right Permit 20817.
2. On June 12, 2007, the Division of Water Rights (Division) received correspondence in which the Permittee requested that the State Water Resources Control Board (State Water Board), Division, revoke Permit 20817. The time to complete construction of the project and make full beneficial use of water under Permit 20817 elapsed on December 31, 2000 and December 31, 2004, respectively.
3. Permit 20817 proposed to enlarge an existing reservoir from 38.2 to 86 acre-feet (the initial 38.2 acre-feet of storage covered by License 13421). An additional reservoir was also proposed to be constructed with a capacity of 49 acre-feet with a total of 96.8 acre-feet of water covered under Permit 20817. Division staff's analysis of records indicates that the proposed enlargement of the 38.2 acre-feet reservoir and the construction of an additional 49 acre-feet reservoir have not commenced.
4. By requesting voluntary revocation, Permittee waived the right to the hearing and notice requirements set forth in Water Code sections 1410 and 1410.1.

**THEREFORE:**

It is ordered that the State Water Board hereby revoke Permit 20817, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

**FEB 19 2008**

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20817**

Application 30236 of Wine World Estates Company

1000 Pratt Avenue, St. Helena, CA 94574

filed on March 17, 1993, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1)(2)(3) Unnamed Stream

Napa River thence

San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Township	Range	Base and Meridian
By California Coordinate System, Zone 2					
(1) <u>Diversion to Offstream Storage</u> (to point 4) North 213,550 feet and East 1,910,900 feet	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	28	5N	4W	MD
(2) <u>Storage and Rediversion</u> Reservoir #2 - North 211,900 feet and East 1,912,500 feet	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	28	5N	4W	MD
(3) <u>Diversion to Offstream Storage</u> (to points 2 and 4) North 215,250 feet and East 1,912,350 feet	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	28	5N	4W	MD
(4) <u>Offstream Storage</u> Reservoir #1	W $\frac{1}{2}$	28	5N	4W	MD

\* projected

County of Napa

3. Purpose of use:	4. Place of use:	Section *	Township	Range	Base and Meridian	Acres
Irrigation	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	21	5N	4W	MD	4
	W $\frac{1}{2}$ of NE $\frac{1}{4}$	28	5N	4W	MD	42
	NW $\frac{1}{4}$	28	5N	4W	MD	94
	W $\frac{1}{2}$ of SE $\frac{1}{4}$	28	5N	4W	MD	45
	E $\frac{1}{2}$ of SW $\frac{1}{4}$	28	5N	4W	MD	33
	E $\frac{1}{2}$ of NE $\frac{1}{4}$	29	5N	4W	MD	18
					TOTAL	236

\* projected

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 96.8 acre-feet per annum to be collected from November 1 of each year to May 14 of the succeeding year as follows: 47.8 acre-feet per annum in Reservoir #1, and 49 acre-feet per annum in Reservoir #2. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2000. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2004. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam for Reservoir #2 as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

14. If Reservoir #1 will be within the jurisdiction of the Department of Water Resources as to safety, construction for the enlarged reservoir under this permit shall not be commenced until the Department has approved the plans and specifications. (0360048)

15. In accordance with the requirements of Water Code Section 1393, permittee shall clear the area covered by the proposed enlargement of Reservoir #1 of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

16. The total quantity of water diverted to storage in Reservoir #1 under this permit, together with that diverted under the permit issued pursuant to Application 26585, shall not exceed 86 acre-feet per annum.. (0000114)

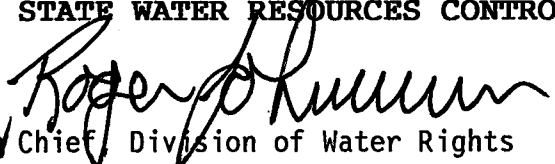
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

*Dated:*  
November 28, 1995

STATE WATER RESOURCES CONTROL BOARD  
  
Chief, Division of Water Rights